

FILED US District Court-UT
AUG 10 '22 PM01:59

TRINA A. HIGGINS, United States Attorney (#7349)
JENNIFER K. MUYSKENS, Assistant United States Attorney (DC#475353)
Attorneys for the United States of America
111 South Main Street, Ste. 1800 • Salt Lake City, Utah 84111
Telephone: (801) 524-5682

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MATTHEW AMBROSE BAKER,

Defendant.

Case No. 2:20-cr-00301-DBB

SUPERSEDING INDICTMENT

Counts 1-2: 18 U.S.C. § 1343 (Wire Fraud)

Count 3: 18 U.S.C. § 401 (Contempt)

Count 4: 18 U.S.C. § 922(g)(1) (Felon in Possession of Ammunition)

Judge David B. Barlow

The Grand Jury Charges:

Background

At all times relevant to this Superseding Indictment:

1. Defendant MATTHEW AMBROSE BAKER (“BAKER”) was a resident of Utah County, Utah.
2. Cap Fund 783, LLC (“Cap Fund”) was a Utah limited liability company.
3. Old Republic National Title Insurance Company (“Old Republic”) is a title insurance and real estate escrow agent licensed and doing business in the State of Utah.

4. In 2019, defendant BAKER owed S.B. \$350,000 for a loan S.B. previously gave to defendant BAKER. Beginning in and around 2019, S.B. loaned defendant BAKER an additional \$95,000 to assist defendant BAKER with his efforts to purchase or prevent the loss of certain real estate investments.

5. In 2019 and continuing through 2021, defendant BAKER began assigning or transferring his ownership and interests in certain business entities and real property to others, and creating business entities for the purpose of transferring or holding assets, to include real property.

Counts 1-2
18 U.S.C. § 1343
(Wire Fraud)

6. All the allegations set forth in this Superseding Indictment are incorporated herein by reference and realleged as though fully set forth herein.

The Scheme and Artifice to Defraud

7. Beginning in and around 2019, and continuing to and including September 2020, within the District of Utah and elsewhere,

MATTHEW AMBROSE BAKER,

defendant herein, devised and intended to devise a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and omissions of material facts.

8. In executing and attempting to execute the scheme and artifice to defraud, and in furtherance thereof, defendant BAKER knowingly transmitted and caused to be transmitted, wire communications in interstate commerce in violation of 18 U.S.C. § 1343 (Wire Fraud).

Manner and Means of the Scheme and Artifice to Defraud

9. In execution and in furtherance of the scheme and artifice to defraud, defendant BAKER, employed the following manner and means:

10. In and around September 2019, in an effort to hide assets, defendant BAKER created business entities purportedly controlled or managed by S.B., which defendant BAKER used to conduct business involving real property. S.B. allowed defendant BAKER to do this because defendant BAKER promised this would allow S.B. to recover money defendant BAKER owed to S.B.

11. On August 30, 2019, defendant BAKER executed a Real Estate Purchase Contract (“REPC”) listing Cap Fund as the buyer of real property for approximately \$373,000 located in Utah County, State of Utah and described as “approximately 7.2 acres contained within Ashton Springs Phase 2” (the “Property”).

12. On or about September 5, 2019, defendant BAKER filed a Certificate of Organization for Cap Fund with the State of Utah Department of Commerce Division of Corporations, in which S.B. was listed as the sole member or manager of Cap Fund.

13. On or about June 26, 2020, Cap Fund, through defendant BAKER, assigned its interest under the REPC to another buyer willing to pay \$373,000.00 for the Property and to pay Cap Fund \$767,000.00 as an assignment fee.

14. Old Republic was the title company and escrow agent for the real estate transaction of the Property.

15. On or about July 1, 2020, defendant BAKER requested that Old Republic wire the assignment fee to defendant BAKER’s personal bank account that was not associated with Cap

Fund.

16. On or about July 1, 2020, defendant BAKER falsely represented to Old Republic that S.B. had assigned Cap Fund's rights to the Property to defendant BAKER personally, in an effort to get Old Republic to disburse the assignment fee to defendant BAKER.

17. After Old Republic refused to release the profits from the sale of the Property to defendant BAKER (because he was not the owner or manager of Cap Fund), defendant BAKER changed the manager and member of Cap Fund out of S.B.'s name and into defendant BAKER's name without S.B.'s permission or knowledge, in an effort to get Old Republic to disburse the assignment fee to defendant BAKER.

18. On or about the dates enumerated in each count below, in the District of Utah, and elsewhere,

MATTHEW AMBROSE BAKER,

defendant herein, having devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and omissions of material facts, for the purpose of executing said scheme and artifice to defraud, did use or cause to be used interstate wire communications facilities, as represented below, each such use of wire communication being a separate count of this Superseding Indictment:

COUNT	DATE (on or about)	WIRE COMMUNICATIONS
1	07/01/2020	Telephone call between defendant BAKER and Old Republic employee L.W., in which defendant BAKER falsely represented that S.B. had assigned Cap Fund's rights to the Property to defendant Baker, and which call was routed across state lines.

COUNT	DATE (on or about)	WIRE COMMUNICATIONS
2	07/02/2020	Online remote login to the State of Utah Department of Commerce Division of Corporations changing the manager and member of Cap Fund from S.B. to defendant BAKER.

All in violation of 18 U.S.C. § 1343.

Count 3
18 U.S.C. § 401(3)
(Contempt)

19. All the allegations set forth in this Superseding Indictment are incorporated herein by reference and realleged as though fully set forth herein.

20. On September 9, 2020, defendant BAKER was federally charged and subsequently placed on pretrial release. On September 23, 2020, the Honorable Magistrate Judge Cecilia M. Romero issued an Order Setting Conditions of Release in case number 2:20-cr-00301 (the “Court Order”). One of the specific conditions in the Court Order prohibited defendant BAKER from creating any new business entities or transferring substantial assets of \$1500, unless approved by the United States Probation and Pretrial Services Office.

21. Beginning on or about August 2021 and continuing through February 2022, in the District of Utah and elsewhere,

MATTHEW AMBROSE BAKER

defendant herein, did willfully and knowingly disobey and resist one or more lawful orders, decrees, and commands of the Honorable Cecilia J. Romero of the United States District Court for the District of Utah of which he had actual knowledge, namely, the September 23, 2020 Order Setting Conditions of Release, in case number 2:20-cr-301-DBB.

22. Specifically, defendant BAKER directly and indirectly, individually and with others, violated the Court Order by transferring assets in excess of \$1500 without the prior approval of the United States Probation and Pretrial Services Office, including but not limited to each instance below:

DATE (on or about)	ASSET	DESCRIPTION
08/12/2021	Real property located in Provo, Utah, which was subsequently sold for approximately \$330,000	Transfer by defendant BAKER from a trust to a company owned by his wife. The property was then sold.
12/13/2021	\$200,000	Wire transfer of funds by defendant BAKER, on behalf of Foxtrot United LLC, to G.H.
01/06/2022	\$3,000	Check from defendant BAKER to SS Marine
01/12/2022	\$10,000	Check from defendant BAKER to Tango 305
01/12/2022	\$2,000	Check from defendant BAKER to BuildTec
02/03/2022	\$600,000	Wire transfer from defendant BAKER to his wife

All in violation of the Court Order, and Title 18, United States Code, Section 401(3).

Count 4
18 U.S.C. § 922(g)(1)
(Felon in Possession of Ammunition)

23. All the allegations set forth in this Indictment are incorporated herein by reference and realleged as though fully set forth herein.

24. On or about March 30, 2022, in the District of Utah and elsewhere,

MATTHEW AMBROSE BAKER,

defendant herein, knowing he had previously been convicted of a crime punishable by

imprisonment for a term exceeding one year, knowingly possessed ammunition, to wit -- 37 rounds of 9mm ammunition and 40 rounds of .38 special ammunition, and the ammunition was in and affecting interstate commerce, all in violation of 18 U.S.C. § 922(g)(1).

NOTICE OF INTENT TO SEEK FORFEITURE

Pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), upon conviction for any offense violating 18 U.S.C. § 922, the defendant shall forfeit to the United States of America any ammunition involved in or used in the commission of the offense, including but not limited to:

- 37 rounds of Ultramax 9mm ammunition; and
- 40 rounds of Federal .38 special ammunition.

A TRUE BILL:



FOREPERSON OF GRAND JURY

TRINA A. HIGGINS
United States Attorney



JENNIEER K. MUYSKENS
Assistant United States Attorney